

AMENDED IN SENATE MAY 20, 1996
AMENDED IN ASSEMBLY MARCH 19, 1996
AMENDED IN ASSEMBLY MARCH 6, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2125

Introduced by Assembly Members Figueroa and Cunneen
(Principal coauthor: Assembly Member Archie-Hudson)
(Coauthors: Assembly Members Alby, Alpert, Baldwin,
Boland, Bowen, Granlund, House, Katz, Knox, Kuehl, Lee,
Willard Murray, Napolitano, Rainey, Rogan, Sweeney,
Thompson, and Vasconcellos)
(Principal coauthor: Senator Kopp)
(Coauthors: Senators Costa, Johnson, Leonard, Marks,
O'Connell, Polanco, Solis, and Watson)

February 1, 1996

An act to add Article 8 (commencing with Section 124170) to Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, and to add Section 273.4 to the Penal Code, relating to female genital mutilation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2125, as amended, Figueroa. Female genital mutilation.

(1) Existing law requires the State Department of Health Services to maintain a program of maternal and child health.

This bill would require the State Department of Health Services, in consultation with the *State* Department of Social

Services, to establish and implement appropriate education, preventative, and outreach activities ~~in communities,~~ *focusing on certain new immigrant populations* that traditionally practice female genital mutilation.

(2) Under existing law, a person is guilty of mayhem who unlawfully and maliciously deprives a human being of a member of his or her body or disables, disfigures, or renders it useless, or cuts or disables specific parts of the face of a person. Under existing law, mayhem is a felony punishable by imprisonment in the state prison for 2, 4, or 8 years.

This bill would provide that a person ~~is guilty of who intentionally performs female genital mutilation who knowingly excises, cuts, or infibulates the labia majora, labia minora, clitoris, or vulva of, as defined, upon~~ another person under the age of 18 years ~~and~~ shall be punished by imprisonment in the state prison for 2, 4, or 8 years. Any parent, guardian, or other responsible person, charged with the care or custody of a child who allows the female genital mutilation of a child shall be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison for 2, 4, or 6 years. ~~The bill would provide exceptions for surgical operations performed by a licensed physician and surgeon that are necessary to the health of the patient or for medical purposes connected with labor or childbirth.~~

By creating a new crime, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the “California State Prohibition of Female Genital Mutilation Act.”

SEC. 2. Article 8 (commencing with Section 124170) is added to Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, to read:

Article 8. Female Genital Mutilation Prevention

124170. The State Department of Health Services, in consultation with the State Department of Social Services, shall establish and implement appropriate education, preventative, and outreach activities—in communities, focusing on the new immigrant populations located in San Diego and the San Francisco Bay Area that traditionally practice female genital mutilation, for the purpose of informing members of those communities of the health risks and emotional trauma inflicted by this practice and informing those communities and the medical community of the prohibition and ramifications of Section 273.4 of the Penal Code.

SEC. 3. Section 273.4 is added to the Penal Code, to read:

~~273.4. (a) Except as provided in subdivision (e), any person who knowingly and intentionally excises, cuts, or infibulates the labia majora, labia minora, clitoris, or vulva of~~

273.4. (a) *Female genital mutilation includes the excision or infibulation of the labia majora, labia minora, clitoris, or vulva, performed for nonmedical purposes. Any person who intentionally performs female genital mutilation upon another person under the age of 18 years is guilty of female genital mutilation and shall be punished by imprisonment in the state prison for two, four, or eight years.*

(b) Any parent, guardian, or other person legally responsible, charged with the care or custody of a child

1 under the age of 18 years, who knowingly and
2 intentionally authorizes the female genital mutilation of
3 that child shall be punished by imprisonment in the state
4 prison for two, four, or six years or in a county jail for not
5 more than one year.

6 ~~(e) Notwithstanding subdivision (a), a surgical~~
7 ~~operation is not a violation of this section if the operation~~
8 ~~is performed by a person licensed as a physician and~~
9 ~~surgeon by this state and is either of the following:~~

10 ~~(1) Necessary to the health of the person on whom it~~
11 ~~is performed.~~

12 ~~(2) Performed on a person in labor or who has just~~
13 ~~given birth and performed for medical purposes~~
14 ~~connected with that labor or birth.~~

15 ~~(d) In applying subdivision (e), the court shall not~~
16 ~~consider the effect on the person on whom the operation~~
17 ~~is performed of any belief of that or any other person that~~
18 ~~the operation is required as a matter of custom or ritual.~~

19 ~~(e)~~

20 (c) Nothing in this section shall preclude prosecution
21 under Section 203, 205, or 273a or any other provision of
22 law.

23 SEC. 4. No reimbursement is required by this act
24 pursuant to Section 6 of Article XIII B of the California
25 Constitution because the only costs that may be incurred
26 by a local agency or school district will be incurred
27 because this act creates a new crime or infraction,
28 eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section
30 17556 of the Government Code, or changes the definition
31 of a crime within the meaning of Section 6 of Article
32 XIII B of the California Constitution.

33 Notwithstanding Section 17580 of the Government
34 Code, unless otherwise specified, the provisions of this act
35 shall become operative on the same date that the act
36 takes effect pursuant to the California Constitution.